

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: FABRIES, Lionel

SERIAL NO.: 10/574760

ART UNIT: 1655

FILED: March 28, 2008

EXAMINER: MI, Q.

TITLE: DERMO-COSMETIC COMPOSITION FOR PETS

Amendment A: REMARKS

Upon entry of the present amendments, previous Claims 1 - 14 have been canceled and new Claims 15 - 32 substituted therefor. Reconsideration of the rejections, in light of the foregoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of placing the claim language into a more proper U.S. format and also for purpose of more clearly distinguishing the present invention from the prior art and for the purpose of placing the claim language into a more proper U.S. format.

In the Office Action, it was indicated that Claims 1 - 3 and 10 were rejected as anticipated by the Braun patent. Claims 1 - 4, 6, 7 and 10 were rejected as anticipated by the Pinnell patent. Claims 1 - 3 and 9 were rejected associated by the Menzel patent. Claims 1, 13 and 14 were rejected as anticipated by the Noda patent. Claims 1 and 5 were rejected as anticipated by the Pierce patent. Claims 1, 3, 10 and 11 were rejected as anticipated by the Murakado patent. Claims 1 - 7, 9 - 11, 13 and 14 were rejected as being obvious over the Pinnell patent, the Pierce patent, the Murakado patent and the Epstein patent. Claims 1 - 7 and 9 - 14 were also rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. There were also objections to the claims

because of various informalities.

As an overview to the present reply, Applicant has revised the original claim language in the form of new Claims 15 - 32. Each of these claims has been expressed in a more proper U.S. format, including proper antecedent bases and proper structural interrelationships throughout. Any indefinite terminology found in the original claim language has been corrected herein.

In particular, so as to clarify the present invention, the previous "composition" claim terminology has been replaced with method terminology. In particular, in the present invention, it is indicated that the method includes "applying a composition to at least one specific location on the coat of the animal". The composition is diffused by the action of the carrier. The active ingredients of the composition are stored by the sebaceous glands of the animal. The active ingredients are gradually released from the sebaceous glands. The remaining claims define the nature of the "composition", the "carrier", and the "essential oils". Applicant believes that the method claim serves to properly define the present invention and to overcome the formality objections that have been entered previously.

In particular, the steps of "applying a composition to at least one specific location" and "diffusing said composition" are known as a "spot-on" application. This arrangement is different than the application of creams, powders, lotions or shampoos. In particular, in paragraphs [0002] - [0005] of the original specification, it was stated as follows:

Veterinary dermatology products for animal preventive or maintenance usage are generally designed in the form of creams, lotions or shampoos.

Their application to animals is always delicate and sometimes unpleasant for them.

The user's normal trend is often to overdose the quantity of product applied as it is frequently the case for lotions and powders,

which causes some disturbance in the animal.

Powders, shampoos or lotions often have a localized effect, which does not make it possible to cover in one single application all needs for a dermo-cosmetic treatment . . .

As such, the present invention overcomes the problems of the prior art by simply applying the composition to locations on the coat of the animal and letting said composition diffuse. As a result, the benefit of this is described in paragraph [0007] of the original specification as follows:

The composition under the invention makes it possible after a localized application to diffuse the active ingredients over the whole surface through the diffusion carrier solvent. Then the invention uses the capacity of the sebaceous glands to store in certain conditions the treatment active ingredients and to gradually release them through the natural production of sebum.

As a result, the method of the present invention is able to treat the entire skin surface of the animal through the application to a limited number of locations. This was recited in paragraph [0009] as follows:

This combination makes it possible to propose a composition ready for use made mainly of a carrier that is a solvent and of essential oils that, once applied in one or more locations of the animal coat, achieves treatment over the whole skin surface of the animal for several days.

Fundamentally, these "spot-on" treatments are very useful since they allow a very rapid application, in a few seconds. This is very convenient for the animals. In contrast, creams, powders, shampoos or lotions must be applied by the user over the entire skin of the animal. As such, the application of creams, powders, shampoos or lotions can take several minutes or hours. As such, this spot-on solution of the method of the present invention is very advantageous when the animals are nervous, or when bathing is not appropriate, for example, after surgery.

In the present invention, the spot-on application of the composition is only applied to at least

one specific location so as to diffuse over the surface of the skin of the animal. As such, it is possible to achieve a treatment over the entire skin surface of the animal from the application over a limited area of the animal skin. The application over the entire skin surface of the animal is achieved, after a localized application, from the diffusion carrier solvent. Importantly, the diffusion of the composition of the present invention on the surface of the skin is quite different than that of the action of creams, powders, shampoos or lotions. Creams, powders, shampoos or lotions should not diffuse but should remain in the location where they are applied. Prior to the present invention, it was not known that the a spot-on solution could be used so as to achieve the diffusion of a complex of essential oils or of a complex composition.

Applicant respectfully contends that the prior art patents neither show nor suggest such a "spot-on" solution. The Braun patent discloses a self-tanning product. The Pinnell patent discloses a composition for application to skin, hair and nails. The Menzel patent discloses a cosmetic self-tanning agent. The Noda patent discloses paste-like stupe composition. The Pierce patent discloses a cosmetic composition for hair and skin in the form of shampoo, hair condition, hair spray, styling gel, pomade, skin cream and lotion. The Murakado patent discloses an external skin care composition that includes agar. The Epstein patent discloses the use of cyclodextrine materials or skin care compositions. These prior art patents, individually or in combination, would not include the steps of "applying a composition to at least one specific location" on the coat of the animal and the step of "diffusing said composition by action of said carrier". There is no teaching or suggestion in the prior art combination that the active ingredients of the composition are "stored" by the sebaceous glands of the animal. Additionally, and furthermore, the active ingredients are not shown as "gradually released" from the sebaceous glands of the animal. As such, Applicant contends that

independent Claim 15 is patentably distinguishable from the prior art combination.

Importantly, the spot-on solutions have not been used on humans because the diffusion requires a sufficient amount of sebum on the skin. This is not reached in humans since humans bath regularly. The prior art patents deal with products that are intended for human beings. They are not suggested for use in association with "coated" animals. Additionally, the prior art patents do not suggest the use of such compositions for coated pets. Applicant respectfully contends that the field of use of the prior art patents is not used with the "coat of an animal". Fundamentally, one would never consider a human to have a "coat". As such, Applicant respectfully contends that the steps of the present invention are neither shown nor suggested by the prior art combination. The results achieved by the present invention are also neither shown nor suggested by the prior art.

Dependent Claims 16 - 20 correspond, respectively, to the limitations of previous dependent Claims 2 - 6. Dependent Claims 21 - 23 correspond, respectively, to the alternate recitations found in previous dependent Claim 7. Dependent Claims 24 - 29 correspond, respectively, to the limitations of previous dependent Claims 9 - 14. Applicant has added Claims 30 and 31 herein so as to clarify that the animal is a pet and to clarify that the composition is diffused "over an entire skin of the animal".

In view of the introduction of independent Claim 15 herein, Applicant respectfully contends that the scope of independent Claim 15 encompasses the various species of the present invention that were identified in the original claim language. As such, the original claim should properly correspond to independent Claim 15 herein.

Based upon the foregoing analysis, Applicant contends that independent Claim 15 is now in proper condition for allowance. Additionally, those claims which are dependent upon independent

Claim 15 should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

January 4, 2011
Date
Customer No. 24106

/John S. Egbert/
John S. Egbert; Reg. No. 30,627
Egbert Law Offices
412 Main Street, 7th Floor
Houston, Texas 77002
(713)224-8080
(713)223-4873 fax